

MANDATE

**United States Court of Appeals
For the First Circuit**

C15 - 30082
USDC/MA-SP
Ponsor, M.

No. 06-1619

SCOTT STERN,
Plaintiff, Appellant,

v.

MARY STERN, ET AL.,
Defendants, Appellees.

Before

Lipez, Circuit Judge,
Stahl, Senior Circuit Judge,
and Howard, Circuit Judge.

JUDGMENT

Entered: April 3, 2007

A judgment of dismissal entered on February 28, 2006. On March 23, 2006, appellant filed a motion for reconsideration. As this motion was not filed within ten days of the February 28 entry of judgment, it did not toll the 30 day period for filing a notice of appeal from the February 28 judgment. See Fed. R. App. P. 4(a)(4) (30 day appeal period tolled only if Rule 59 or Rule 60 motion filed within 10 days of entry of judgment); see also Fed. R. Civ. P. 59(e) (timely motion must be filed within 10 days of entry of judgment). Accordingly, the notice of appeal filed on April 5, 2006 is not timely to bring forward the February 28 judgment for our review.

At best, the April 5 notice of appeal was timely only from the March 30, 2006 order denying the motion for reconsideration. We review a district court's denial of a motion for reconsideration for abuse of discretion. See DiMaio Family Pizza & Luncheonette, Inc. v. The Charter Oak Fire Ins., 448 F.3d 460, 462 (1st Cir. 2006). From aught that appears, appellant raised nothing in his motion for reconsideration not previously raised. The district

court did not abuse its discretion in refusing to alter or amend its judgment for earlier-considered reasons.

The motion to strike the appellee's brief is denied.

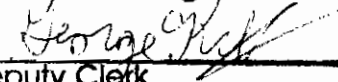
The district court order, entered on March 30, 2006, denying the motion for reconsideration is affirmed.

By the Court:

Richard Cushing Donovan, Clerk.

**Certified and Issued as Mandate
under Fed. R. App. P. 41.**

Richard Cushing Donovan, Clerk


Deputy Clerk

Date: 5/15/07

MARGARET CARTER

By: _____
Chief Deputy Clerk.

[cc: Scott Stern, Erin C. Wyllie, Esq., Edward F. Berlin, Esq.,
Richard J. Poliferno, Esq., Thomas Franco, Esq.]